

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE MIDDLE DISTRICT OF TENNESSEE**  
**NORTHEASTERN DIVISION**

<b>TRACY FORD, as parent and next friend, for WYATT MABRY,</b>	)	
<b>CHRISTOPHER J. KANE, as parent and next friend, for SHELBY KANE,</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>Case No. 2:15-cv-00059</b>
	)	
<b>v.</b>	)	
	)	
<b>CLAY COUNTY BOARD OF EDUCATION and JERRY STRONG,</b>	)	
<b>in his official capacity,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANTS' JOINT MOTION TO DISMISS**  
**FOR FAILURE TO JOIN AN INDISPENSABLE PARTY**

Come now the Defendants Clay County Board of Education and Jerry Strong (collectively “Defendants”), by and through counsel, pursuant to Rule 12(b)(7) of the Federal Rules of Civil Procedure, and jointly move this Honorable Court to dismiss the Complaint filed against them by Plaintiffs Tracy Ford, as parent and next friend for Wyatt Mabry, and Christopher J. Kane, as parent and next friend, for Shelby Kane (collectively “Plaintiffs”) for failure to join a required, indispensable party.

In support of this Motion, Defendants submit that the Clay County Commission and the Tennessee Department of Education are required, indispensable parties to this action pursuant to Rule 19 of the Federal Rules of Civil Procedure and the Tennessee Declaratory Judgments Act, Tenn. Code Ann. 29-14-101 *et seq.*, and this litigation cannot move forward in their absence. Plaintiffs’ Complaint (attached as Exhibit 1 hereto) should therefore be dismissed for failure to

join a required, indispensable party. In further support of this Motion, Defendants rely on their supporting Memorandum of Law, file simultaneously herewith and incorporated fully herein.

WHEREFORE, based upon the foregoing, Defendants move this Honorable Court for entry of an Order dismissing Plaintiffs' Complaint in its entirety for failure to join a required, indispensable party.

Respectfully submitted,

**LEWIS, THOMASON,  
KING, KRIEG & WALDROP, P.C.**

By /s/ Charles W. Cagle

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*Attorneys for Defendants Clay County Board of Education and Jerry Strong*

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 14th day of October, 2015 a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

X

By placing postage prepaid envelope in United States Mail Service, addressed to:

Michael R. Giaimo, BPR# 19394  
James D. White, BPR# 10313  
204 N. Washington Avenue  
Cookeville, TN 38501

/s/ Charles W. Cagle \_\_\_\_\_